

REMARKS

The Application has been carefully reviewed in light of the Advisory Action mailed November 5, 2004. Applicant respectfully requests reconsideration and favorable action in this Application.

The Examiner issued a Final Action on June 15, 2004. Applicant submitted a Response to Examiner's Final Action on September 15, 2004. The Examiner issued an Advisory Action on November 5, 2004 stating that the Response to Examiner's Final Action was considered but it did not place the application into condition for allowance. Applicant filed a Notice of Appeal on November 15, 2004. Applicant respectfully requests continued examination of this Application so that the Examiner can reconsider the rejections to the claims pursuant to this Request for Continued Examination in view of the following.

Claims 1-7 and 15-17 stand rejected under 35 U.S.C. §102(e) as being anticipated by Moran. As the Moran patent has an effective filing date of August 26, 1998 that is less than one year prior to the effective filing date of September 29, 1998 for this Application, attached herewith is a Declaration Under 37 C.F.R. §1.131 by the inventors stating that the claimed invention was conceived and reduced to practice through diligence prior to the effective filing date of the Moran patent. Accompanying the Declaration Under 37 C.F.R. §1.131 are documents in support thereof with dates redacted. Therefore, Applicant respectfully submits that Claims 1-7 and 15-17 are not anticipated by the Moran patent.

Claims 23-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Horowitz, et al. The Horowitz, et al. patent has a filing date of June 30, 1999 and claims the benefit of a provisional application filed June 30, 1998. The effective filing date of this Application is September 29,

1998. First, the Examiner has not shown that the disclosure in the Horowitz, et al. patent relied upon in rejecting the claims is in the provisional filing of the Horowitz, et al. patent. Second, even if the provisional filing could support the rejection of the claims, the provisional filing date of the Horowitz, et al. patent is less than one year prior to the effective filing date for this Application. Attached herewith is a Declaration Under 37 C.F.R. §1.131 by the inventors stating that the claimed invention was conceived and reduced to practice through diligence prior to the provisional filing date of the Horowitz, et al. patent. Accompanying the Declaration Under 37 C.F.R. §1.131 are documents in support thereof with dates redacted. Therefore, Applicant respectfully submits that Claims 23-25 are not anticipated by the Moran patent.

Claims 8-14, 18-22, and 26-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moran in view of Horowitz, et al. As discussed above, attached herewith is a Declaration Under 37 C.F.R. §1.131 showing that the inventors conceived and reduced to practice through diligence the subject matter of the claimed invention. Therefore, Applicant respectfully submits that Claims 8-14, 18-22, and 26-28 are patentably distinct from the proposed Moran - Horowitz, et al. combination.

Attached herewith is a check in an amount of \$395.00 made payable to the "Commissioner of Patents and Trademarks" to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e).

Applicant respectfully requests a three month extension of time for filing this Request for Continued Examination. Attached herewith is a Notification of Extension of Time with check in support thereof.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of Claims 1-28.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicants

A handwritten signature in dark ink, appearing to read 'Charles S. Fish', is written over the typed name.

Charles S. Fish

Reg. No. 35,870

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